

**UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK**

MICROSOFT CORPORATION,

Plaintiff,

V.

DATATERN, INC.,

Defendant.

CIVIL ACTION NO. 1:11-cv-02365-KBF  
CIVIL ACTION NO. 1:11-cv-02648-KBF

SAP AG and SAP AMERICA, INC.,

Plaintiffs,

V.

DATATERN, INC.,

Defendant.

**DEFENDANT DATATERN, INC.'S  
NOTICE OF MOTION FOR  
RECONSIDERATION OF DATATERN,  
INC.'S MOTION TO STAY OR  
DISMISS**

PLEASE TAKE NOTICE that upon the supporting Memorandum of Law filed herewith, Defendant DataTern, Inc. (“DataTern”) by and through its attorneys, McCarter & English, LLP, will move this Court, at Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, on such date and time specified by the Court, for the Court to reconsider its denial of DataTern’s Motion to stay or dismiss Microsoft Corporation, SAP AG and SAP America, Inc.’s (collectively “Plaintiffs”) declaratory judgment suit pursuant to Fed. R. Civ. P. 12(b)(1), 12(h)(3) for lack of subject matter jurisdiction, lack of standing, and because of prior pending actions, and for such other and further relief as the Court deems just and proper.

PLEASE TAKE NOTICE that, opposition papers, if any, must be served in accordance with Local Rule 6.1(b), by February 28, 2012 as set forth in the briefing schedule issued by the Court.

Dated: February 14, 2012

McCARTER & ENGLISH, LLP

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*Attorneys for Defendant  
DataTern, Inc.*

**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the above Notice of Motion was served on this 14th day of February, 2012 upon counsel of record for Microsoft Corp., SAP AG and SAP America, Inc. via *ECF*.

/s/ Lee Carl Bromberg

Lee Carl Bromberg